

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Joseph Aaron Romero-Mendoza,)	No. CV 11-1275-PHX-JAT (ECV)
Petitioner,)	REPORT AND RECOMMENDATION
vs.)	
Katrina Kane,)	
Respondent.)	

TO THE HONORABLE JAMES A. TEILBORG, UNITED STATES DISTRICT JUDGE:

Pending before the court is Petitioner's *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Doc. 1. Petitioner alleges that on March 12, 2008, an Immigration Judge (IJ) issued an order requiring his removal from the United States to El Salvador. On October 16, 2008, the Board of Immigration Appeals affirmed the IJ's order.

Petitioner then sought review in the Ninth Circuit Court of Appeals and that petition remains pending. See Romero-Mendoza v. Holder, No. 08-74674 (9th Cir. pet. for review filed Nov. 14, 2008). On April 22, 2009, the Ninth Circuit granted Petitioner's motion to stay his removal. Id.

1 Petitioner filed his *pro se* Petition for Writ of Habeas Corpus in this court on June 28,
2 2011. Doc. 1. Petitioner alleges that his continued detention while his appeal is pending is
3 unconstitutional. Id. at 4. He seeks release from custody.

4 On September 30, 2011, Respondent filed a Notice to the Court and Suggestion of
5 Mootness in which she asserts that Petitioner was released from custody after posting a bond
6 of \$10,000 on September 8, 2011. Doc. 13. In the filing, Respondent provides a copy of the
7 letter establishing that Petitioner has been released on bond. Id. Because Respondents'
8 evidence demonstrates that Petitioner has obtained the relief he sought in his petition, this
9 action is moot. See Picrin-Peron v. Rison, 930 F.2d 773, 775 (9th Cir. 1991) (alien's habeas
10 petition challenging the length of his detention pending deportation was rendered moot when
11 petitioner was released from custody and reparoled into the United States). The court will
12 therefore recommend that the Petition for Writ of Habeas Corpus be dismissed.

13 **IT IS THEREFORE RECOMMENDED:**


14 That the Petition for Writ of Habeas Corpus (Doc. 1) be **denied and dismissed**
15 **without prejudice;**

16 This recommendation is not an order that is immediately appealable to the Ninth
17 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of
18 Appellate Procedure, should not be filed until entry of the district court's judgment. The
19 parties shall have 14 days from the date of service of a copy of this recommendation within
20 which to file specific written objections with the Court. See, 28 U.S.C. § 636(b)(1); Fed. R.
21 Civ. P. 6(a), 6(b) and 72. Thereafter, the parties have 14 days within which to file a response
22 to the objections. Failure to timely file objections to the Magistrate Judge's Report and
23 Recommendation may result in the acceptance of the Report and Recommendation by the
24 district court without further review. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121
25 (9th Cir. 2003). Failure to timely file objections to any factual determinations of the
26 Magistrate Judge will be considered a waiver of a party's right to appellate review of the
27
28

1 findings of fact in an order of judgement entered pursuant to the Magistrate Judge's
2 recommendation. See Fed. R. Civ. P. 72.

3 DATED this 24th day of October, 2011.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


Edward C. Voss
United States Magistrate Judge